

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JORGE C. AGUILERA,

Plaintiff,

-against-

THE COUNTY OF NASSAU and NASSAU  
COUNTY POLICE DEPARTMENT,

Defendants.  
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**ORDER**

CV 05-4002 (ADS)(ARL)

**LINDSAY, Magistrate Judge:**

Before the court is the defendants' letter application dated January 12, 2007, seeking to preclude the plaintiff's physician, Dr. Gurevich, from testifying at trial. In the alternative, the defendants seek to extend the discovery schedule so that they have an opportunity to depose Dr. Gurevich and to conduct an independent medical examination of the plaintiff concerning his new allegations. The plaintiff opposes the application by letter dated January 17, 2007. For the reasons set forth below, the defendants' application is granted to the extent they seek an extension of the discovery deadline.

On January 11, 2007, eight days before the close of discovery, the plaintiff served the defendants with an Amended Response to the Defendants' Third Demand for Discovery and Inspection, which indicated that, at trial, Dr. Gurevich would testify that the plaintiff suffers from post-traumatic stress disorder and depression. The plaintiff provided the defendants with a HIPAA Authorization along with their response. However, the plaintiff did not provide the defendants with a Rule 26(b) report or a curriculum vitae for Dr. Gurevich. The plaintiff contends that it Dr. Gurevich is a treating physician and will not be testifying as an expert.

Based on the plaintiff's representation, an expert report is not necessary. Nor is there a basis to preclude his testimony. However, the defendants are entitled to take Dr. Gurevich's deposition after receipt of the plaintiff's medical records and to conduct a medical examination of the plaintiff concerning these new allegations. Accordingly, on or before February 28, 2007, the plaintiff is to arrange for the deposition of Dr. Gurevich and to make himself available for an independent medical examination. The plaintiff shall also provide the defendants with a copy of his medical records by February 19, 2007.

Discovery is extended for the limited purpose outlined in this order. Any party planning on making a dispositive motion shall take the first step in the motion process by March 14, 2007.

The final conference scheduled for February 8, 2007 is adjourned to March 21, 2007 at 11:00 a.m.

Dated: Central Islip, New York  
January 31, 2007

**SO ORDERED:**

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ARLENE R. LINDSAY  
United States Magistrate Judge